

**Senate Study Bill 3117 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
REVENUE BILL)

**A BILL FOR**

1 An Act relating to the policy administration of the tax  
2 and related laws of the department of revenue, including  
3 administration of income taxes, sales and use taxes, and  
4 an environmental protection charge, a financial account  
5 matching and debt collection system, property taxes, and  
6 study reports related to property taxes and the office  
7 of the state debt coordinator, and including retroactive  
8 applicability provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I  
INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph c, subparagraph (4), Code 2011, is amended by striking the subparagraph.

Sec. 2. Section 2.48, subsection 3, paragraph e, subparagraph (5), Code 2011, is amended by striking the subparagraph.

Sec. 3. Section 15.119, subsection 2, paragraph e, Code Supplement 2011, is amended by striking the paragraph.

Sec. 4. Section 422.7, subsection 21, paragraph a, subparagraph (1), unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Net capital gain from the sale of real property used in a business, excluding passive activity businesses as defined in section 469(c) of the Internal Revenue Code, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section 423.1, excluding passive activity businesses as defined in section 469(c) of the Internal Revenue Code, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

Sec. 5. Section 422.15, subsection 2, Code 2011, is amended to read as follows:

2. Every partnership, including limited partnerships organized under chapter 488, ~~having a place of business in the state~~ doing business in this state or deriving income from sources within this state as defined in section 422.33, subsection 1, shall make a return, stating specifically the net income and capital gains ~~(or losses)~~ or losses reported on the federal partnership return, the names and addresses of the

1 partners, and their respective shares in said amounts.

2 Sec. 6. Section 422.25, subsection 1, paragraph b, Code  
3 2011, is amended to read as follows:

4 b. The period for examination and determination of the  
5 correct amount of tax is unlimited in the case of a false or  
6 fraudulent return made with the intent to evade tax or in the  
7 case of a failure to file a return. In lieu of the period  
8 of limitation for any prior year for which an overpayment of  
9 tax or an elimination or reduction of an underpayment of tax  
10 due for that prior year results from the carryback to that  
11 prior year of a net operating loss or net capital loss, the  
12 period is the period of limitation for the taxable year of the  
13 net operating loss or net capital loss which results in the  
14 carryback. If the tax found due is greater than the amount  
15 paid, the department shall compute the amount due, together  
16 with interest and penalties as provided in subsection 2, and  
17 shall mail a notice of assessment to the taxpayer and, if  
18 applicable, to the taxpayer's authorized representative of the  
19 total, which shall be computed as a sum certain ~~if paid on or~~  
20 ~~before, with interest computed to the last day of the month~~  
21 ~~in which the notice is dated, or on or before the last day of~~  
22 ~~the following month if the notice is dated after the twentieth~~  
23 ~~day of any month. The notice shall also inform the taxpayer~~  
24 ~~of the additional interest and penalty which will be added to~~  
25 ~~the total due if not paid on or before the last day of the~~  
26 ~~applicable month.~~

27 Sec. 7. Section 422.33, subsections 9 and 27, Code  
28 Supplement 2011, are amended by striking the subsections.

29 Sec. 8. REPEAL. Sections 16.211, 16.212, and 422.11X, Code  
30 2011, are repealed.

31 Sec. 9. RETROACTIVE APPLICABILITY. The following provision  
32 or provisions of this division of this Act apply retroactively  
33 to January 1, 2012, for tax years beginning on or after that  
34 date:

35 1. The section of this Act amending section 422.7,

1 subsection 21.

2 2. The section of this Act amending section 422.15,  
3 subsection 2.

4 DIVISION II

5 SALES AND USE TAXES

6 Sec. 10. Section 423.3, subsection 47, paragraph a,  
7 unnumbered paragraph 1, Code Supplement 2011, is amended to  
8 read as follows:

9 The sales price from the sale or rental of computers,  
10 machinery, and equipment, including replacement parts but  
11 excluding computer software and prewritten computer software,  
12 and materials used to construct or self-construct computers,  
13 machinery, and equipment if such items are any of the  
14 following:

15 Sec. 11. Section 423.3, subsection 47, paragraph a,  
16 subparagraph (4), Code Supplement 2011, is amended to read as  
17 follows:

18 (4) Computers directly and primarily used in processing  
19 or storage of data or information by an insurance company,  
20 financial institution, or commercial enterprise.

21 Sec. 12. Section 423.3, subsection 47, paragraph c,  
22 subparagraph (2), Code Supplement 2011, is amended to read as  
23 follows:

24 (2) Point-of-sale equipment and computers, electronic  
25 equipment with embedded computerized components, and  
26 stand-alone entertainment devices.

27 Sec. 13. Section 423.3, subsection 47, paragraph c, Code  
28 Supplement 2011, is amended by adding the following new  
29 subparagraph:

30 NEW SUBPARAGRAPH. (5) Computers, machinery, and equipment,  
31 including replacement parts, and materials used to construct  
32 or self-construct computers, machinery, and equipment that  
33 otherwise meet the requirements of paragraph "a", subparagraphs  
34 (1), (2), or (6), but are used at a location where a  
35 manufacturer makes retail sales.

1 Sec. 14. Section 423.37, subsection 2, Code 2011, is amended  
2 to read as follows:

3 2. If a return required by this subchapter is not filed,  
4 or if a return when filed is incorrect or insufficient ~~and~~  
5 ~~the maker fails to file a corrected or sufficient return~~  
6 ~~within twenty days after the same is required by notice from~~  
7 ~~the department,~~ the department shall determine the amount of  
8 tax due from information as the department may be able to  
9 obtain and, if necessary, may estimate the tax on the basis of  
10 external indices, such as number of employees of the person  
11 concerned, rentals paid by the person, stock on hand, or other  
12 factors. The determination may be made using any generally  
13 recognized valid and reliable sampling technique, whether or  
14 not the person being audited has complete records, as mutually  
15 agreed upon by the department and the taxpayer. The department  
16 shall give notice of the determination to the person liable  
17 for the tax. The determination shall fix the tax unless the  
18 person against whom it is assessed shall, within sixty days  
19 after the giving of notice of the determination, apply to the  
20 director for a hearing or unless the taxpayer contests the  
21 determination by paying the tax, interest, and penalty and  
22 timely filing a claim for refund. At the hearing, evidence may  
23 be offered to support the determination or to prove that it is  
24 incorrect. After the hearing the director shall give notice of  
25 the decision to the person liable for the tax.

26 DIVISION III

27 ENVIRONMENTAL PROTECTION CHARGE

28 Sec. 15. Section 424.10, subsection 2, paragraph a, Code  
29 Supplement 2011, is amended to read as follows:

30 a. If a return required by this chapter is not filed, or  
31 if a return when filed is incorrect or insufficient ~~and the~~  
32 ~~maker fails to file a corrected or sufficient return within~~  
33 ~~twenty days after the return is required by notice from the~~  
34 ~~department,~~ the department shall determine the amount of charge  
35 due from information as the department may be able to obtain

1 and, if necessary, may estimate the charge on the basis of  
2 external indices or factors. The department shall give notice  
3 of the determination to the person liable for the charge. The  
4 determination shall fix the charge unless the person against  
5 whom it is assessed shall, within sixty days after the date  
6 of the notice of the determination, apply to the director for  
7 a hearing or unless the person against whom it is assessed  
8 contests the determination by paying the charge, interest, and  
9 penalty and timely filing a claim for refund. At the hearing  
10 evidence may be offered to support the determination or to  
11 prove that it is incorrect. After the hearing the director  
12 shall give notice of the decision to the person liable for the  
13 charge.

14 DIVISION IV

15 FINANCIAL ACCOUNT MATCHING AND DEBT COLLECTION

16 Sec. 16. Section 421.17A, subsection 4, Code 2011, is  
17 amended to read as follows:

18 4. *Verification of accounts and immunity from liability.*

19 a. The facility may contact a financial institution to  
20 obtain verification of the account number, the names and  
21 social security numbers listed for the account, and the  
22 account balance of an account held by an obligor. Contact  
23 with a financial institution may be by telephone or by written  
24 communication. The financial institution may require positive  
25 voice recognition and may require the telephone number of  
26 the authorized person from the facility before releasing an  
27 obligor's account information by telephone.

28 b. The facility and financial institutions doing business  
29 in Iowa shall enter into agreements to share information  
30 through a data match system. The agreements shall require  
31 that each financial institution shall provide to the facility  
32 for each calendar quarter the name, record address, social  
33 security number or other taxpayer identification number, and  
34 other identifying information for each obligor who maintains  
35 an account at the institution and who has delinquent accounts,

1 charges, fees, loans, taxes, or other indebtedness owed  
2 to or being collected by the state, as identified by the  
3 facility by name and social security number or other taxpayer  
4 identification number.

5 c. A financial institution shall provide the information  
6 required in paragraph "b" through the same data match system  
7 developed by the department of human services child support  
8 recovery unit pursuant to section 252I.4. A financial  
9 institution that provides information on an obligor to the  
10 department of human services child support recovery unit data  
11 match system in one calendar quarter shall not be required to  
12 provide information to the facility on the same obligor in the  
13 same calendar quarter.

14 d. The department of revenue and the department of human  
15 services shall enter into a cooperative agreement to implement  
16 paragraph "b" and to share information in the data match system  
17 to the extent allowed by federal law, including Tit. IV, part D  
18 of the federal Social Security Act. As part of the agreement,  
19 the facility and the department of revenue shall reimburse the  
20 department of human services and its child support recovery  
21 unit for any additional cost incurred in implementing this  
22 subsection.

23 e. The facility shall pay a reasonable fee to a financial  
24 institution for conducting the data match required in  
25 paragraphs "b" and "c", not to exceed the lower of either one  
26 hundred fifty dollars for each quarterly data match or the  
27 actual costs incurred by the financial institution for each  
28 quarterly data match. The facility may use the state share  
29 of funds collected under this subsection to pay the fees to  
30 financial institutions under this paragraph. The director may  
31 adopt rules pursuant to chapter 17A to specify a time period  
32 and deadline to submit a claim for a fee under this paragraph.

33 b. f. The financial institution is immune from any civil or  
34 criminal liability which might otherwise be incurred or imposed  
35 for information released by the financial institution to the

1 facility pursuant to this section.

2 ~~e.~~ g. The financial institution or the facility is not  
3 liable for the cost of any early withdrawal penalty of an  
4 obligor's certificate of deposit.

5 h. The information available to the facility pursuant  
6 to this subsection is confidential and shall be used by the  
7 facility only in administrative levy collection activities  
8 conducted pursuant to this section.

9 i. The director shall adopt rules pursuant to chapter 17A  
10 for the implementation and administration of this subsection.  
11 The rules shall specify an implementation plan for the data  
12 match system.

13 Sec. 17. Section 421.17A, subsection 7, Code 2011, is  
14 amended by adding the following new paragraph:

15 NEW PARAGRAPH. d. A financial institution shall not be  
16 liable for blocking access to or surrendering an obligor's  
17 assets in response to an administrative levy action under this  
18 section, or for any other action taken in good faith to comply  
19 with the requirements of this section.

20 Sec. 18. Section 421.17A, Code 2011, is amended by adding  
21 the following new subsection:

22 NEW SUBSECTION. 9. This section shall not be construed  
23 to preclude a financial institution from doing either of the  
24 following:

25 a. Recouping a deposit made to an obligor's account if the  
26 financial institution is lawfully entitled to do so.

27 b. Collecting standard or contractual account activity fees  
28 to the extent such fees are necessary to maintain an account  
29 during any period in which access to the account is blocked or  
30 encumbered pursuant to this section.

31 Sec. 19. Section 422.20, subsection 3, paragraph a, Code  
32 Supplement 2011, is amended to read as follows:

33 a. Unless otherwise expressly permitted by section 8A.504,  
34 section 8G.4, section 96.11, subsection 6, section 421.17,  
35 subsections 22, 23, and 26, subsection 27, paragraph "k", and

1 subsection 31, section 252B.9, section 321.40, subsection  
2 6, sections 321.120, 421.17A, 421.19, 421.28, 422.72, and  
3 452A.63, and this section, a tax return, return information,  
4 or investigative or audit information shall not be divulged to  
5 any person or entity, other than the taxpayer, the department,  
6 or internal revenue service for use in a matter unrelated to  
7 tax administration.

8 Sec. 20. Section 422.72, subsection 3, paragraph a, Code  
9 Supplement 2011, is amended to read as follows:

10 a. Unless otherwise expressly permitted by section 8A.504,  
11 section 8G.4, section 96.11, subsection 6, section 421.17,  
12 subsections 22, 23, and 26, subsection 27, paragraph "k", and  
13 subsection 31, section 252B.9, section 321.40, subsection  
14 6, sections 321.120, 421.17A, 421.19, 421.28, 422.20, and  
15 452A.63, and this section, a tax return, return information,  
16 or investigative or audit information shall not be divulged to  
17 any person or entity, other than the taxpayer, the department,  
18 or internal revenue service for use in a matter unrelated to  
19 tax administration.

20 DIVISION V

21 PROPERTY TAXES

22 Sec. 21. Section 427B.4, Code 2011, is amended to read as  
23 follows:

24 **427B.4 Application for exemption by property owner.**

25 1. a. An application shall be filed for each project  
26 resulting in actual value added for which an exemption is  
27 claimed. The first application for exemption shall be filed  
28 by the owner of the property with the ~~local assessor~~ governing  
29 board of the city or county in which the property is located by  
30 February 1 of the assessment year in which the value added is  
31 first assessed for taxation for which the exemption is first  
32 claimed, but not later than the year in which all improvements  
33 included in the project are first assessed for taxation, or the  
34 following two assessment years.

35 b. Applications for exemption shall be made on forms

1 prescribed by the director of revenue and shall contain  
2 information pertaining to the nature of the improvement, its  
3 cost, the estimated or actual date of completion, whether the  
4 exemption schedules described in section 427B.3 or an alternate  
5 schedule adopted pursuant to section 427B.1 will be elected,  
6 and any other information deemed necessary by the director of  
7 revenue.

8 2. a. A person may submit a proposal to the city council  
9 of the city or the board of supervisors of a county to receive  
10 prior approval for eligibility for a tax exemption on new  
11 construction. The city council or the board of supervisors, by  
12 ordinance, may give its prior approval of a tax exemption for  
13 new construction if the new construction is in conformance with  
14 the zoning plans for the city or county. The prior approval  
15 shall also be subject to the hearing requirements of section  
16 427B.1.

17 b. Prior approval received under this subsection does not  
18 entitle the owner to exemption from taxation until the new  
19 construction has been completed and found to be qualified real  
20 estate. However, if the tax exemption for new construction is  
21 not approved, the person may submit an amended proposal to the  
22 city council or board of supervisors to approve or reject.

23 Sec. 22. RETROACTIVE APPLICABILITY. This division of this  
24 Act applies retroactively to January 1, 2012, for assessment  
25 years beginning on or after that date.

26 DIVISION VI

27 STUDY REPORT

28 Sec. 23. PROPERTY TAXATION OF TELECOMMUNICATIONS COMPANIES  
29 — REPORT. The department of revenue, in consultation  
30 with the department of management, representatives of the  
31 telecommunications industry, and other interested stakeholders,  
32 shall study the current system of assessing telecommunications  
33 property and levying property tax against telecommunications  
34 companies and make recommendations for changes. The  
35 department of revenue shall prepare and file a report detailing

1 recommendations for changes to the current system of assessing  
2 telecommunications property and levying property tax against  
3 telecommunications companies. The report shall be filed by the  
4 department of revenue with the chairpersons and ranking members  
5 of the ways and means committees of the senate and the house  
6 of representatives and with the legislative services agency by  
7 January 11, 2013.

8 DIVISION VII

9 REPORT — STATE DEBT COORDINATOR

10 Sec. 24. DEPARTMENT OF REVENUE AND OFFICE OF THE STATE  
11 DEBT COORDINATOR — REPORT. The director of the department  
12 of revenue shall develop and recommend legislative proposals  
13 deemed necessary for the continued efficiency of the functions  
14 of the office of the state debt coordinator established in  
15 section 421C.1, and shall prepare and file a report detailing  
16 the recommendations. The report shall be filed by the director  
17 of the department of revenue with the department of management,  
18 the governor, and the general assembly no later than January  
19 14, 2013.

20 EXPLANATION

21 This bill relates to the policy administration of the tax and  
22 related laws by the department of revenue.

23 Division I relates to income taxes.

24 The division amends Code section 422.7, relating to the Iowa  
25 capital gain exclusion, to provide that capital gains from  
26 the sale of real property used in a business or from the sale  
27 of a business which is defined as a passive activity business  
28 under section 469(c) of the Internal Revenue Code does not  
29 qualify for the exclusion. This provision of the bill applies  
30 retroactively to January 1, 2012, for tax years beginning on  
31 or after that date.

32 The division amends Code section 422.15 to provide that  
33 partnerships doing business in Iowa or deriving income from  
34 sources within Iowa are required to file Iowa partnership  
35 returns. This new language is consistent with the filing

1 requirement for corporations set forth in Code section 422.33.  
2 This provision of the bill applies retroactively to January 1,  
3 2012, for tax years beginning on or after that date.

4 The division strikes language in Code section 422.25 to  
5 eliminate the requirement that notices of assessment issued  
6 after the twentieth day of a month include an interest  
7 calculation for the next month.

8 The division amends Code section 422.33 to repeal the  
9 assistive device tax credit for corporate income tax. The  
10 assistive device tax credit for individual income tax was  
11 repealed by 2009 Iowa Acts, chapter 179, section 151, and no  
12 assistive device tax credit has been issued to a taxpayer since  
13 2001. The division makes conforming changes to Code sections  
14 2.48 and 15.119 to remove the assistive device credit from  
15 the list of tax credits to be reviewed by the legislative tax  
16 expenditure committee, and the list of tax credit programs  
17 among which the economic development authority allocates the  
18 annual aggregate tax credit limit.

19 The division repeals the disaster recovery housing project  
20 tax credit in Code sections 16.211 and 16.212. This credit,  
21 which was to be implemented and administered by the Iowa  
22 finance authority, was never implemented. The division makes  
23 conforming changes to Code section 2.48 to remove the disaster  
24 recovery housing project tax credit from the list of tax  
25 credits to be reviewed by the legislative tax expenditure  
26 committee, and to Code sections 422.11X and 422.33 to remove  
27 references in the individual and corporate income tax.

28 Division II relates to sales and use taxes.

29 The division amends the sales tax exemption in Code section  
30 423.3 for certain equipment used by manufacturers by providing  
31 that the exemption shall not apply if the equipment is computer  
32 software or prewritten computer software.

33 The division amends the sales tax exemption in Code section  
34 423.3 for computers used in the processing or storage of data  
35 or information by an insurance company, financial institution,

1 or commercial enterprise to apply only to computers directly  
2 and primarily used in processing or storage of data by an  
3 insurance company, financial institution, or commercial  
4 enterprise.

5 The division amends Code section 423.3 to provide that  
6 the sale or rental of electronic equipment with embedded  
7 computerized components or of stand-alone entertainment devices  
8 is not exempt from the sales tax.

9 The division adds a new exception to the sales tax exemptions  
10 in Code section 423.3, subsection 47, for certain computers,  
11 machinery, and equipment used by manufacturers by providing  
12 that the exemption shall not apply if the equipment is used at  
13 a location where the manufacturer makes retail sales.

14 By operation of Code section 423.6, an item exempt from the  
15 imposition of the sales tax is also exempt from the use tax  
16 imposed in Code section 423.5.

17 The division strikes language in Code section 423.37 to  
18 eliminate the requirement that the department send a notice  
19 to filers of sales or use tax returns if the return is either  
20 incorrect or insufficient. The department would be authorized  
21 to determine the amount of tax due and send a notice of  
22 assessment to the person liable for the tax.

23 Division III relates to the environmental protection charge  
24 on petroleum diminution.

25 The division strikes language in Code section 424.10 to  
26 eliminate the requirement that the department send a notice to  
27 filers of environmental protection charge returns if the return  
28 is either incorrect or insufficient. The department would be  
29 authorized to determine the amount of tax due and send a notice  
30 of assessment to the person liable for the tax.

31 Division IV relates to the establishment of an automated  
32 data match process.

33 The division amends Code section 421.17A to allow for  
34 the establishment of an automated data match process to  
35 request and receive certain obligor account information from

1 financial institutions. Financial institutions will provide  
2 the requested information each calendar quarter through  
3 the data match system already established and developed  
4 by the department of human services child support recovery  
5 unit. Financial institutions will be required to enter into  
6 agreements to provide such information for persons who have  
7 delinquent accounts, charges, fees, loans, taxes, or other  
8 indebtedness owed to the state. If a financial institution  
9 provides information on a person to the department of human  
10 services through the data match system in any calendar quarter,  
11 it will not be required to fulfill a request by the department  
12 of revenue on that same person in the same calendar quarter.

13 The department of revenue and the department of human  
14 services are directed to enter into an agreement to share  
15 information and costs related to use of the data match system  
16 by both departments. The financial institutions are also  
17 entitled to a reasonable fee, paid by the department of  
18 revenue, for fulfilling its data match requests.

19 If the department of revenue acquires information on a  
20 person through the data match system, it may initiate an  
21 administrative action in accordance with existing law in Code  
22 section 421.17A to levy against the person's account at the  
23 financial institution.

24 The division further amends Code section 421.17A to add a  
25 waiver of liability for a financial institution's compliance  
26 with a levy action and to establish a financial institution's  
27 right to recoup deposits and collect activity fees it is  
28 lawfully entitled to during the administrative levy process.

29 Code sections 422.20 and 422.72, relating to the general  
30 prohibition against disclosure of taxpayer information by  
31 the department of revenue and other state officials, are  
32 amended to permit the department of revenue to share data with  
33 the department of human services and financial institutions  
34 pursuant to Code section 421.17A.

35 Division V of the bill relates to property taxes.

1 The division amends Code section 427B.4 to extend by two  
2 years the time period for claiming the industrial real estate  
3 or cattle facilities property tax exemptions. Currently, a  
4 taxpayer cannot claim one of these exemptions unless it is  
5 claimed in the first year the property is eligible for the  
6 exemption. The division applies retroactively to January 1,  
7 2012, for assessment years beginning on or after that date.

8 Division VI establishes a study to be facilitated by  
9 the department of revenue, in consultation with applicable  
10 stakeholders, regarding property tax on telecommunications  
11 companies. The department of revenue will study the current  
12 system of assessing property and levying property tax  
13 for telecommunications companies. A report detailing any  
14 recommended changes will be filed with the chairperson and  
15 ranking members of the ways and means committees of the senate  
16 and the house of representatives and with the legislative  
17 services agency by January 11, 2013.

18 Division VII establishes a report to be prepared and filed by  
19 the director of the department of revenue. The director will  
20 develop and recommend legislative proposals deemed necessary  
21 for the office of the state debt coordinator, which shall  
22 be compiled in a report and filed with the department of  
23 management, the governor, and the general assembly no later  
24 than January 14, 2013.